

In the Office Action the Examiner indicated that claims 1-11 have been rejected twice (see Office Actions dated 4/23/2003 and 11/19/2003), while claims 12-13 have been rejected once (see Office Action 11/19/2003), and therefore claims 12-13 have not been twice rejected (see MPEP 1204 [r-3] 35 U.S.C. 134).

The Examiner's comments related to the rejection of the claims have been carefully considered. In accordance with MPEP 1204 [r-3] an applicant for a patent, any of whose claims have been twice rejected, may appeal from the decision of the primary Examiner to the Board of Patent Appeals and Interferences. Therefore, it is believed to be clear that the applicant of this application did have the right to appeal from the decision of the primary Examiner expressed in the Final Action of November 19, 2003.

As for the Examiner's statement that some claims were rejected twice while other claims were rejected once, the corresponding MPEP sections and the corresponding patent laws do not limit the arguments presented in the Brief on Appeal only to those claims which have been twice rejected. This is why in the present Brief on Appeal the appellant argued against the rejection of those claims which have been twice rejected, and also against the rejection of those claims which have been once rejected.

It is respectfully requested to withdraw the Notification of Non-Compliant Appeal Brief and to accept the Appeal Brief for further proceedings.

Respectfully submitted,


Michael J. Striker
Attorney for Applicant
Reg. No. 27233